IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.495 (MS) OF 2006

Deepak Singh Bisht,
S/o late Sri Shyam Singh Bisht,
R/o Pilgrim Lodge, Out House,
Mallital, Nainital. .....Petitioner.

Versus

1. Nagar Palika Parishad, Nainital through its Executive Officer.
2. Nagar Palika Parishad, through its President.
3. District Magistrate, Nainital. .....Respondents.

Ms. Prabha Noliyal, Advocator for the petitioner.
Sri D.S. Patni, Advocate for the respondents no. 1 and 2.
Learned Standing Counsel for the respondents no. 3.

Dated: 04.05.2006

Hon'ble Rajesh Tandon, J.

By the writ petition, the petitioner has prayed for a writ of mandamus commanding the respondents to decide the representation of the petitioner regarding allotment of the shop as alternative arrangement.

Briefly stated, the petitioner was having a shop and was carrying his business for last several years near Band Stand/Boat Stand Mallital, Nainital. The shops were demolished and therefore, the petitioner filed an application for allotment of the alternative shop in his favour.

Petitioner has submitted that earlier, a civil Suit being Suit No.162/1990 was decreed on 27.05.1994 directing the respondents not to dispossess the petitioner except in due course of law.

Since the shops have already been demolished, the petitioner has made a representation for allotment of an alternative shop.

Mr. D.S. Patni has referred two judgments of this Court, where in Writ Petition no. 471 (MB) of 2003, the Committee has been constituted for allotment of the alternative shop to the petitioner and the committee is headed by Commissioner of the Division. The order passed in Writ Petition No. 475 of 2003 is quoted below:-

"We have considered the submission made above. In our order dated May 21, 2004, we have, passed the following order:-

"We, therefore, form a committee in order to rehabilitate the shopkeepers/Hawkers who were evicted in the course of eviction drive in pursuance to the order passed by this Court in P.L.L. No. 566 of 2001 pertaining to Nainital City. The Committee is constituted as under:-

Chairman-Commissioner of the Davison.

Members-1. District Magistrate, Nainital.

2. Executive Engineer, P.W.D., Nainital.

We refer the matter to the constituted Committee, who shall hear the parties concerned and make policy and provide adequate accommodation expeditiously for their rehabilitation who were evicted. The entire exercise has to be made within a period of one month."

We, therefore, allow the application and the Committee as stated above shall be constituted to the following effect:-

Chairman-Commissioner of the Divison.

Members-1. District Magistrate, Nainital.

2. Executive Engineer, P.W.D., Nainital.

3. Secretary Lake Development Authority, Nainital

4. Executive Officer, Municipal Board, Nainital.

We direct the Committee concerned to explore possibility of alternative places for rehabilitation within a period of two months.

Order is modified accordingly."

In view of the aforesaid order, the writ petition is disposed of with a direction that the Committee shall include the two members namely Ser Alok Singh, Sr. Advocate and Mr. Shaildnera Singh Chauhan, Advocate.

The aforesaid committee is directed to dispose of the representation of the petitioner within a period of six weeks from the date of presentation of the certified copy of the order.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

04.05.2006
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